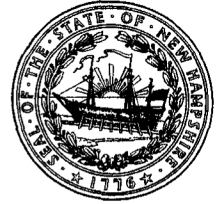




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

May 20, 2005

Farogh Wein
237 Main Street
Claremont, NH 03746

Re: Docket No. AF 04-076 Motion to Accept Settlement Agreement

Dear Mr. Wein:

Enclosed for your records is a copy of the Motion to Accept Settlement Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Director of the Waste Management Division, and accepted by Commissioner Michael P. Nolin on May 19, 2005.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael J. Sclarani,
Legal Assistant

cc: Anthony P. Giunta, PG., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Lynn Woodard, DES WMD
Thomas Beaulieu, DES WMD
Tammy Calligandes, DES WMD

Farogh Wein
237 Main Street
Claremont, NH 03743

RE: Claremont Mobil 2, 114 Pleasant Street
Claremont, NH –UST ID #0-112730

**ADMINISTRATIVE FINE
No. AF 04-076**

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division (“the Division”) and Farogh Wein, parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services (“DES”), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. Farogh Wein is the registered facility owner of four underground storage tank (“UST”) systems at the Claremont Mobil 2 facility (“the Facility”), further identified as UST #0-112730, located on real property at 114 Pleasant Street, Claremont, NH (“the Property”).
3. On September 10, 2004, the Division issued Notice of Proposed Administrative Fine No. AF 04-076 (“the Notice”) to Farogh Wein seeking fines totaling \$7,700, for violations of New Hampshire Administrative Rule Part Env-Wm 1401.
4. Specifically, the Notice cited Farogh Wein for violating Env-Wm 1401.21(I) by failing to display and permanently affix a certificate bearing the Facility’s tank information. Pursuant to Env-C 607.02(b) the Division sought a fine of \$100.
5. The Notice further cited Farogh Wein for violating Env-Wm 1401.25(d) by failing to properly install and maintain overfill protection equipment for three of the four USTs. Pursuant to Env-C 607.05(j) the Division sought a fine of \$600.
6. The Notice further cited Farogh Wein for violating Env-Wm 1401.30(a) by failing to conduct release detection for all of the piping systems at the four USTs. Pursuant to Env-C 607.03(j) the Division sought a fine of \$4,000.
7. The Notice further cited Farogh Wein for violating Env-Wm 1401.31(a) by failing to maintain leak monitoring equipment in good working order at all times to continuously perform their original design function for three of the four USTs. Pursuant to Env-C 607.05(d) the Division sought a fine of \$3,000.

8. In order to settle this matter, the Division and Farogh Wein have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
9. Of the proposed fine in the amount of \$7,700, 20% or \$1,540 shall be suspended due to good faith effort by the respondent to comply. An additional 20% or \$1,540 shall be suspended due to the respondent's cooperation in providing information and correcting the violations. An additional 20% or \$1,540 shall be suspended due to the respondent's small business status.
10. The suspended portion of the proposed fine, in the amount of \$4,620, is contingent on Farogh Wein maintaining the subject facility in compliance with New Hampshire Administrative Rules Env-Wm 1401 for a period of two years from the date of the execution of this document. If Farogh Wein fails to maintain compliance during the two-year period, the suspended portion of the proposed fine in the amount of \$4,620 shall become immediately due and payable. If Farogh Wein maintains compliance for the prescribed two-year period, the suspended portion of the fines shall be waived.
11. Farogh Wein agrees to pay the remaining \$3,080 upon execution of this Agreement by Farogh Wein.
12. Payment under Paragraph #11, and any payment that becomes due pursuant to Paragraph #10, shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095
13. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.
14. By executing this Agreement, Farogh Wein waives his right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.
15. The effective date of this Agreement will be the date on which it is signed by Farogh Wein, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

16. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,

5/5/5
Date

COPY
By: Farogh Wein, Owner

5/15/05
Date

DES Waste Management Division
COPY
Anthony Giunta, P.G., Director

This Motion to Accept Settlement agreement is granted this 19th day of May, 2005.

COPY
Michael P. Volin, Commissioner
Department of Environmental Services